P.R. No. 3671/06
Presented by Sh. Anil Pandey.
on 18/7/06

4

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

W.P. No:-3602 Of 2006 SINGLE BENCH

Petitioner : Ageshwar Das son of Aachan Das Manikpuri,
Panchayat karmi, Gram Panchayat kolihamar,
Resident of kolihamar, Tahsil Gurur, District Durg (C.G.)

Vs.

Respondents :

1. State of Chhattisgarh,
through secretary
Panchayat Evam Social Justice,
Raipur (C.G.)

2. Addl. Collector, Durg
District Durg (C.G.)

3. Deputy Director,
Panchayat Evam Social Justice, Durg (C.G.)

4. Chief Executive Officer,
Janpad Panchayat Gurur (C.G.)

5. Smt. Rinda Bai wife of keleshwar Singh Netam,
Sarpanch Gram Panchayat kolihamar,
Gram kolihamar,
Tahsil Gurur, District Durg (C.G.)

Gram Panchayat kolihamar,
through Secretary, Gram kolihamar,
Tahsil Gurur, District Durg (C.G.)

RECEIVED COPY
CLERK H. C. G. BILASPUR
18/7/06.

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA FOR WANT OF WRIT IN THE NATURE OF MANDAMUS, CERTIORARI ETC. OR ANY OTHER APPROPRIATE WRIT, DIRECTION OR ORDER.

(26)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.No...3602... **सन् 2006**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

21-7-2006:-

Shri Anil Pandey, counsel for the petitioner.

Shri Sumesh Bajaj, Government Advocate for the State/ respondents No.1 to 3, on advance copy.

Heard both the counsel.

By the instant petition, the petitioner has questioned the order dated 11th July 2005 passed by the Additional Collector, Durg whereby the Additional Collector allowed the revision filed by the Sarpanch, Gram Panchayat, Kolihamar and quashed the order of Sub Divisional Officer. The Sub Divisional Officer vide order dated 1-6-2004 quashed the order of the Gram Panchayat Kolihamar dated 5-5-2004 removing the respondent/petitioner herein from the post of Panchayat Karmi.

It is admitted position that the services of Panchayat Karmi are governed under the Chhattisgarh Panchayat Service (Discipline and Appeal) Rules, 1999 (for short 'the Rules, 1999) and major penalties as mentioned in the Rules 5 (b) can be imposed only after following the procedure of enquiry as envisaged under Rule 7 of the Rules, 1999. In the present case, admittedly, before imposing the penalty of removal of the petitioner, no such procedure has been adopted by the Gram Panchayat.

Perusal of the impugned order dated 5-5-2004 whereby the petitioner was removed from the post of Panchayat Karmi shows that vide resolution No.1 dated 29-4-2004 the petitioner was removed from the post of Panchayat Karmi.

Since the procedure as envisaged in Rule 7 of the Rules, 1999 has not been adopted, therefore, the order Annexure-P/2 of the Sarpanch, Gram Panchayat, Kolihamar is without jurisdiction and if this order is

P.T.O.

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ....3602/06.... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

allowed to exist, then same would amount to failure of justice, as such, this petition is being disposed of at the admission stage itself because issuance of notice to respondents No.4 to 6 will amount to further delay of the proceeding. However, if respondents No.4 to 6 still feel aggrieved by this order, then they will be at liberty to file an application for recalling of this order.

In the result, the writ petition is allowed and the orders passed by the Additional Collector dated 11-7-2005 and Sarpanch, Gram Panchayat, Kolihamar dated 5-5-2004 are quashed. It is made clear that the competent authority shall be at liberty to initiate enquiry against the petitioner under the Rules, 1999 and thereafter to take appropriate decision, in accordance with law.

In view of this order, M.(W.)P. No.2796/2006 stands disposed of.

Parties are entitled for certified copy of this order.

Sd/-
L.C.Bhadoo
Judge

Barve

P.T.O.